

Application No.: 10/767,743Docket No.: 713-1009**REMARKS**

Reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks is respectfully requested. Entry of this Amendment under Rule 116 is merited as it raises no new issues and requires no further search.

Claims 8, 10, 14-17 and 21-25 are pending in the application. Claims 6-7, 9, 11-13, and 18-20 have been cancelled without prejudice or disclaimer. Claims 8 and 14 have been rewritten in independent form including all limitations of base claim 6. No new matter has been introduced through the foregoing amendments.

The Examiner's withdrawal of the objections to the specification is noted.

The Examiner's 35 U.S.C. 102(b) rejection of claims 6-25 as being anticipated by *Inoue* (U.S. Patent No. 5,322,402) is also noted. Although Applicants do not necessarily agree with the Examiner's rejection, some of the rejected claims have been cancelled to simplify the issues. The remaining claims, i.e., claims 8, 10, 14-17 and 21-25, remain unchanged in scope as these claims are not anticipated by the applied reference, for the reasons advanced herein below.

As to claim 8, Applicants respectfully submit that *Inoue* clearly fails to teach or disclose each and every element of the rejected claim, especially the claimed locking tab that has a lower end directly connected to said shank and an upper end free of any direct attachment with said shank.

The Examiner argued that in Applicants' drawings, snapping lugs 26 are not exactly free of shank 12 since each lug 26 is at one point connected to shank 12 via the bottom of lug 26. the Examiner's argument is flawed for at least two reasons.

First, the Examiner improperly read the specification into the claim. The Examiner is kindly reminded that "[a]lthough a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into

Application No.: 10/767,743

Docket No.: 713-1009

the claims. See *In re Prater*, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claim that are not recited in the claim. See also *MPEP*, section 2173.05(q).

Second, the Examiner impermissibly disregarded the word "direct." The plain meaning of claim 8 is that the upper end of the locking tab is free of any direct attachment with the shank. Claim 8 does not require that the upper end of the locking tab be absolutely free of the shank as the Examiner seemed to argue. The limitation of claim 8 is supported by the application as filed, e.g., the drawings which show, in FIGs. 1-2, that lug 26 has an upper end that is not directly attached to the shank. *Inoue* clearly fails to teach or disclose the limitation of claim 8 because the upper end of "locking tab" 7b is directly attached to shank 5, as best seen in FIG. 2 of the reference.

Withdrawal of the anticipatory rejection of claim 8 and claim 10 depending therefrom in view of the above is believed appropriate and therefore courteously solicited.

As to claim 14, Applicants respectfully submit that *Inoue* clearly fails to teach or disclose each and every element of the rejected claim, especially the claimed shank that has an approximately rectangular cross section in the region adjacent to said head, and comprises said shoulder and said outer surface section in a corner portion of the approximately rectangular cross section.

The Examiner argued that the *Inoue* shank has a rectangular cross section since it does fit into a parallel sided hole. Applicants respectfully disagree for at least two reasons.

First, there is no disclosure of a parallel sided hole in *Inoue* as the Examiner alleged. The hole 4a is shown in FIG. 1 of the reference in a cross sectional view. A person of ordinary skill in the art would know that holes of different cross sections appear similarly in cross sectional views. Therefore, the cross sectional view in FIG. 1 of *Inoue* cannot serve as evidence that hole 4a is a

Application No.: 10/767,743**Docket No.: 713-1009**

parallel sided hole.

Second, shank 5 is explicitly disclosed by *Inoue* to have a rounded, rather than a rectangular, cross section. The Examiner's attention is kindly directed to attached *Exhibit B* which is an annotated version of FIG. 2 of *Inoue*. In *Exhibit B*, the rounded ends designated at B1 and the shading designated at B3 indicate that shank 5 has a cylindrical shape or a rounded cross section. A person of ordinary skill in the art would understand that such a rounded object cannot be considered rectangular in cross section and does not have any corner, unlike the presently claimed shank.

In addition, as can be seen in FIG. 2 of *Inoue*, the reference's shoulder "7a" is located in a middle portion, rather than at a corner portion of head 6.

Accordingly, Applicants respectfully submit that the anticipatory rejection of claim 14, as well as claims 15-17 depending therefrom, is inappropriate and should be withdrawn.

As to claim 15, Applicants respectfully submit that the applied reference does not teach or disclose the claimed locking tab positioned in a middle of a side of the approximately rectangular cross section. Claim 15, when read together with claim 14 from which claim 15 depends, requires that the shoulder is located at a corner portion whereas the locking tab is positioned in a middle portion of a side of the approximately rectangular cross section. The relevant elements of *Inoue*, i.e., "shoulder" 7a and "locking tab" 7b, are angularly spaced about 90 degrees (column 3, lines 26-27 of *Inoue*) and, therefore, must be both located either in middle portions of adjacent sides or at adjacent corner portions of shank 5 if it is indeed has a rectangular cross section, which Applicants contend to the contrary. The *Inoue* "shoulder" 7a and "locking tab" 7b cannot be located in the presently claimed, i.e., with one in a middle portion of a side and the other at a corner of a "rectangular cross sectional" shank 5.

Accordingly, Applicants respectfully submit that the anticipatory rejection of claim 15 is inappropriate and should be withdrawn.

Application No.: 10/767,743

Docket No.: 713-1009

As to claim 21, Applicants respectfully submit that *Inoue* clearly fails to teach or disclose each and every element of the rejected claim, especially the claimed inclined outer surface section extends continuously, radially inwardly and upwardly from said shoulder to the lower surface of said head.

The Examiner argued that the *Inoue* incline following the shoulder 7a extends inward and upward toward the head. The Examiner seemed to improperly disregard the claim requirement that the inclined surface extend inwardly and upwardly to, rather than toward, the lower surface of the head. *Inoue*, contrary to the Examiner's allegation, clearly fails to teach or disclose the claimed feature.

The Examiner's attention is now directed to *Exhibit C* which is an enlarged, annotated version of FIG. 1 of *Inoue*. In *Exhibit C*, the lower surface of the head 6 is designated at C1, the upper portion (in interval C3) of the incline is designated at C2, and the lower portion (in interval C5) of the incline is designated at C4. A person of ordinary skill in the art would at once recognize that the lower portion C4 of the incline does not extend to the lower surface C1 of the head as presently claimed. The person of ordinary skill in the art would further note that the upper portion of the incline does not extend inwardly as presently claimed; C2 actually extends outwardly. Thus, the *Inoue* incline does not extend continuously, radially inwardly and upwardly from the shoulder to the lower surface of the head, as recited in claim 21.

The anticipatory rejection of claim 21, as well as claim 22 depending therefrom, is therefore inappropriate and should be withdrawn.

As to claim 23, Applicants respectfully submit that *Inoue* clearly fails to teach or disclose each and every element of the rejected claim, especially the claimed inclined outer surface section extends continuously, radially inwardly and upwardly from said shoulder to the lower surface of said head, as argued with respect to claim 21 which includes a similar limitation.

Application No.: 10/767,743**Docket No.: 713-1009**

The anticipatory rejection of claim 23, as well as claims 24-25 depending therefrom, is therefore inappropriate and should be withdrawn.

As to claim 25, Applicants respectfully submit that the applied reference does not teach or disclose the claimed region of said shank with said shoulder which region has a cross section allowing said region to pass through said opening without being deformed. Note, the phantom line in FIG. 1 of *Inoue* which indicates that the shoulder carrying region 7a of the shank 5 is deformed upon passing through hole 4a.

The Examiner argued that it would be readily apparent to a person of ordinary skill in the art of the ability to change the *Inoue* shoulder size to meet the claimed limitation. The Examiner also raised numerous arguments and cited *MPEP*, section 2144 (Sources of Rationale Supporting a Rejection Under 35 U.S.C. 103) to support his position that the claimed limitation is a matter of obvious engineering choice, since a modification such as a mere change in size would be obvious to skilled artisans. Applicants respectfully submit that the above listed arguments are not valid arguments in an anticipatory rejection. See the Office Action, at page 3, paragraph [4], the first line where the Examiner rejected claim 25 as being clearly anticipated by *Inoue*. If it was indeed the Examiner's intent to reject claim 25 under another provision, e.g., *35 U.S.C. 103(a)*, the current *35 U.S.C. 102(b)* rejection of claim 25 must first be withdrawn.

In addition, Applicants respectfully submit that it would not have been obvious to modify the size of the *Inoue* shank in the manner the Examiner proposed, because the resulting device would be inoperative. In particular, if the "shoulder" 7a was sized to pass through hole 4a without being deformed, "locking tab" 7b which has about the same radial extent as "shoulder" 7a (see FIG. 2 of *Inoue*) would necessarily be passable through hole 4a without being deformed. As a result, none of modified claws 7a, 7b could engage the underside of the sheet material 4 to prevent shank 5 from being withdrawn from hole 4a. The modified *Inoue* device would thus be inoperative.

Application No.: 10/767,743**Docket No.: 713-1009**

For the above advanced reasons, Applicants respectfully submit that claim 25 is patentable over the applied reference.

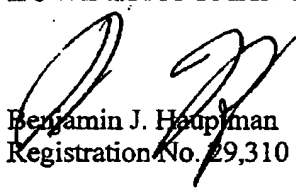
Each of the Examiner's rejections has been overcome/traversed. Accordingly, all claims in the present application are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

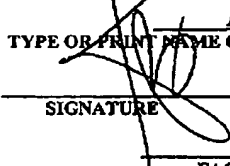
Respectfully submitted,

LOWE HAUPTMAN & BERNER, LLP


Benjamin J. Hauptman
Registration No. 29,310

USPTO Customer No. 22429
1700 Diagonal Road, Suite 310
Alexandria, VA 22314
(703) 684-1111 BJH/KL/klb
(703) 518-5499 Facsimile
Date: July 12, 2005

CERTIFICATION OF FACSIMILE TRANSMISSION
I HEREBY CERTIFY THAT THIS PAPER IS BEING FACSIMILE TRANSMITTED
TO THE PATENT AND TRADEMARK OFFICE ON THE DATE SHOWN BELOW


TYPE OR PRINT NAME OF PERSON SIGNING CERTIFICATION
Kindra Bryant
SIGNATURE
July 12, 2005
DATE
703-872-9306
FACSIMILE NUMBER